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ABSTRACT

The process of the passage of the Education Reform Bill in Great Britain is likely to be long and controversial. The bill is likely to have a major impact on the funding and administration of higher and further education. It is likely that polytechnics and other major institutions now under the control of local authorities will obtain corporate status and will be able to hold their own property, appoint their own staff, and be directly responsible for their own affairs. About 80 percent of what is now provided in what is called the public sector will pass away from local authorities and only relatively limited and specialist provision will be left in the mixed economy Local Education Authority (LEA) colleges. Existing funding arrangements will be replaced by a system of contracts. The main thrust of the Education Reform Bill in further and higher education and in the schools is to reduce the influence of local LEA members. Accountability will thus likely be left more entirely to the customer or as a matter between contractors. It is, however, very likely that LEA departments will have to act as agents for institutions under contract for a long time to come. The bill will, finally, confirm the local authority provision of further education explicitly. (MN)

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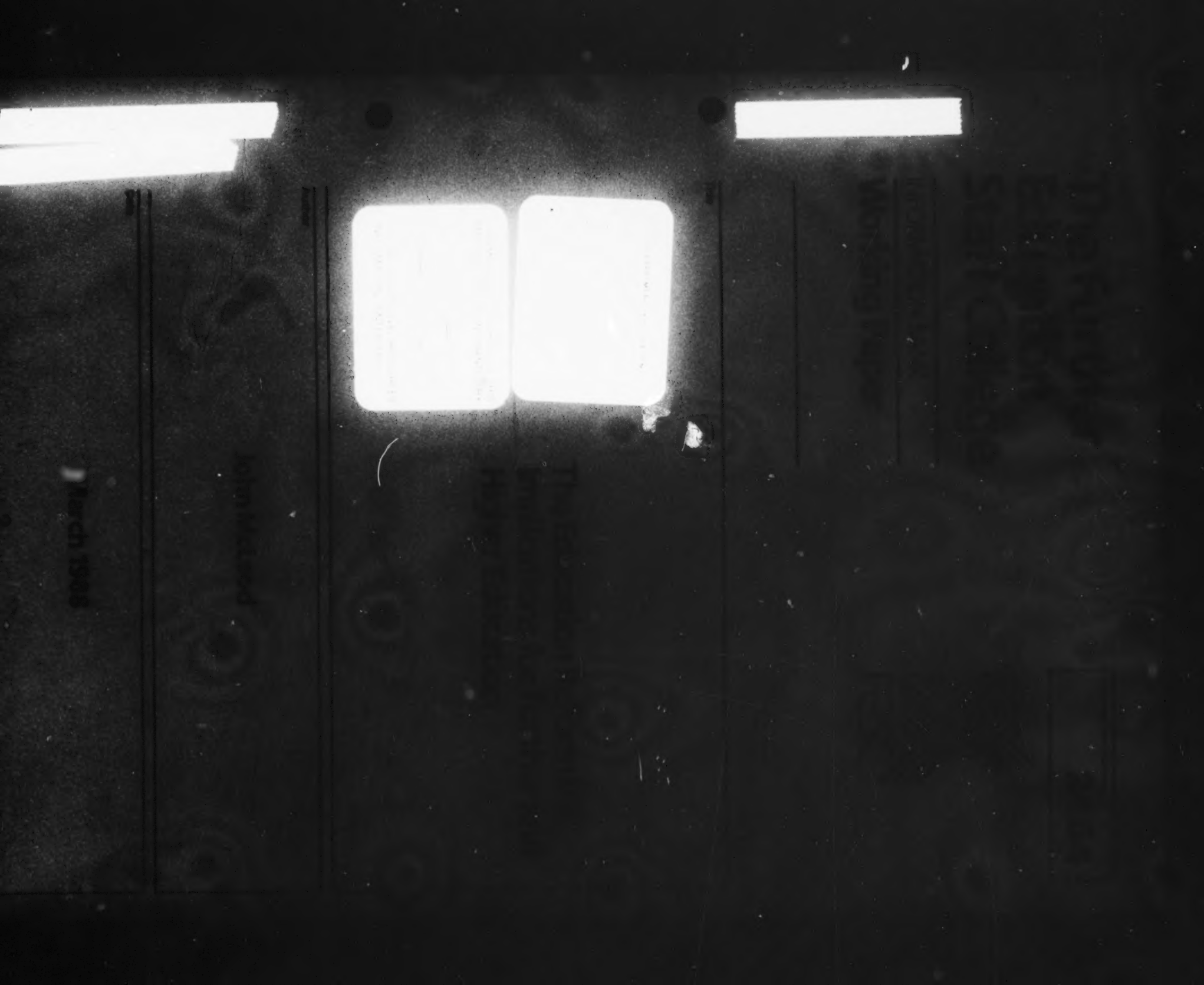

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INTRODUCTORY REMARKS

This address was delivered on November 11, 1987 by John McLeod, Senior Principal Officer (Education) of the Association of Metropolitan Authorities to members attending the FESC course 'Current Issues in Further and Higher Education'. It was very warmly received.

A few days later, on November 20th, the Education Reform Bill was laid before Parliament.

John has kindly given permission for his address to be reproduced. It represents the views of the local authorities immediately before the publication of the most important educational legislation since the 1944 Education Act.

John Graystone
Course Tutor: Issues in Further and Higher Education
November 11-13, 1987

(A)

The Education Bill: Implications for FHE

When I drafted this talk for this evening it came out as a sort of rumbustious defence of the local authority involvement in further and higher education and NAFE. On the train down this afternoon I started to re-read the ' NAB Good Management Practice Report', and I started to have doubts ! But if the tone of what I have to say is perhaps a little bit more tentative than as I originally drafted it, forgive me; it might, however, provoke some discussion at the end of the talk. What I will try and do is not to fill an hour and a half with assertion and speculation, especially as this has been billed as an after dinner session which needs to meet the three imperatives of stand up, speak up and shut up, so I will try to leave time for questions, discussion, or if you prefer an early bath.

The Education Bill as a whole is going to be long and controversial. We expect to see it published within the next fortnight, perhaps as early as this Friday, although, the current feeling in London is that it will be a week tomorrow. The contents of the Bill have been very heavily trailed. Indeed, the higher education elements were actually the subject of White Paper Proposals before the general election, although the formal consultation period on most of the proposals has really been very short. There is no doubt that the proposals affecting higher and further education have been overshadowed, at least in the public perception, by the much more populist suggested reforms in schools: that is always the way, isn't it? Schools are far more politically sexy than further and higher education. The Local Authority Associations had a meeting with the Secretary of State a couple of weeks ago, at which he noted with a degree of satisfaction and possibly even relief that the FE Consultative Paper, had aroused less criticism and less comment than the others. For the sake of the health of the further education sector, I think we might argue similarly in respect of HE as well, that it is profoundly to the disadvantage of the service. We can understand, I think, the reasons for The White Paper proposals and those in the Consultative Paper on further education, but that doesn't mean that some of the proposals aren't dangerous or simply half baked. They will have serious management implications if they are enacted as proposed and they do merit far more discussion and analysis than they have received either in the educational press or indeed in the education service generally.

The Bill is going to have its first reading very soon, we think very early December; the second reading possibly very early January; and there will be what we hope is an exhaustive committee stage in February and March, perhaps April; and it will go to The House of Lords in the early Summer. The Government would like to obtain Royal Assent by July 1988, but it is prepared to contemplate it not being received until September or October 1988. That timetable does assume that there are no unreasonable delays in

the Commons and it also assumes, which may not be entirely safe, a reasonably clear run in the House of Lords. It is in the Lords that most of the proposals to do with higher education are more likely to be fully discussed, simply because there are more people in the House of Lords with a direct interest in and knowledge of the higher education system, particularly the Universities.

We hope that their Lordships will bring to bear some dispassionate scrutiny on the Bill; there will certainly be some Lords' amendments and indeed the Government itself is likely to want to bring in amendments of its own to the Bill as it goes through Parliament. But if these amendments are not too destructive the Bill should be law this time next year.

The Government regards this as being ample time at least in the higher education sector to prepare for Vesting Day in April 1989, when, as one civil servant rather elegantly put it in a private seminar to polytechnic finance and administrative staff, "that will be when the institutions released from the sordid grasp of local authorities will come into their patrimony, and gain control of their own affairs". In further education the year between Royal Assent and September/October 1989, is going to have to be used to reconstitute boards of governors along the lines set out in the Consultation Paper, unless we can secure some amendments, and to prepare schemes of financial delegation for colleges; at least that's the plan , although if you read the Consultation Paper carefully, you will see that there is a timing problem of running the two exercises together; if the civil servants acknowledge this, there may be some spinning out of the process.

It will be interesting to see how the Bill as presented departs from the White paper and the Consultative Paper proposals; in other words, it will be interesting to see how effective the very foreshortened consultation period has been. It will also be interesting to see how much of the proposals are contained in primary legislation and how much is left to be introduced by order, by statuory instrument or by circulars of guidance. Some of the most fundamental aspects for the management of the new regime in higher education and in further education, like, as far as HE is concerned, the new accounting or audit proposals, are likely to be a matter for secondary legislation or departmental initiative, very unlikely indeed to be in the legislation itself. On the essentials in higher education , I don't think we need assume that there will be very many differences between the White Paper and actuality.

There will be established a Universities Funding Council to replace UGC, there will be a Polytechnics and Colleges Funding Council to replace NAB. Polytechnics and other major institutions now under the control of local authorities will obtain corporate status and they will be able to hold their own property, appoint their own staff and so on, they will be responsible for their own affairs directly. About 80% of the higher education now provided in what we call the Public Sector, what the Government calls the Polytechnic and Colleges Sector, will pass away from local authorities and only relatively limited and specialist provision, though it will still be fairly diverse, will be left in the mixed economy

LEA Colleges. Existing funding arrangements will be replaced by a system of contracts: for example, between PCFC and the newly independent institutions, between PCFC and the local authorities that are left with some higher education and between local authorities of the separated brethren in respect of the residual amount of NAFE left in the Polytechnics . We do already know of one change to the White Paper proposals: what was to have been the Polytechnics and Colleges Assets Board, will now be known as the Education Assets Board, and it will have a continuing responsibility, long after vesting day, for the HE sector, for supervising the difficult cases of transfer of assets from LEA's not just to higher education institutions but to supervise similar transfers in respect of grant maintained schools. In other words, they are saying, "let's not create two quangos where one will do".

There is one area we think of possible concession on the higher education proposals and that is the cut-off point for transfer. There has been some suggestion that the 55% AFE cut-off point is too low and that a somewhat higher figure of 75 or 80% might be adopted. This was particularly put forward by certain leading members of the Association of County Councils in discussion with the Secretary of State during the summer, and he undertook to go away and reflect on it. Now if you actually look at the figures in the White Paper, that will probably only affect about half a dozen institutions directly and it would mean that one or two others, some of the bigger colleges like, GLOSCAT or Cambridge, wouldn't be able to divest themselves of NAFE work sufficient to make the transfer into the PCFC sector. As I say, this is something which has been talked about: it may happen it maybe one of the concessions the Government feels it expedient to make. We shall see !

I won't go into all the objections in principle to the HE proposals: you know most of them and if you want to see the local authority view fully and really quite elegantly expressed, I commend to you the CLEA booklet "Answering the Challenge". I have a copy here. It is quite well worth reading the discussion of the issues and I have prepared an amateur handout which shows some of the differences between the local authority approach and the government's approach on a range of planning and finance issues. Incidentally, those of us who were in local government in 1980-81 when the government first put in a bid to take over local authority higher education (this is before the establishment of NAB,) remember the scale and the impact of CLEA counter proposals, which were if you remember, eventually taken up by higher education minister William Waldegrave and formed the basis of NAB. At that time what the local authorities said in response to government actually mattered. That it is probable that the government's current proposals will pass through Parliament largely unscathed is a measure of the declining political influence of the local authority constituency. Having said that, it has to be said that the clear espousal of the management model contained in the NAB Good Management Practice report does seem to have an element of death bed conversion about it.

There is an awful paradox here. We think the local education authority contribution to the national management of public sector higher education is largely irreproachable and has ensured, for example, that NAB has worked far more effectively than was expected. However there have been frankly too many instances of poor management and poor authority/institutional relationships locally to convince ministers in their present mood that the promise of being good which was the response to the Good Management Practice report was anything other than a naked political manoeuvre. Crucially the government has been fed lots of information (possibly tendentious, but if you read this report there is an awful lot of fact behind it), by leading members of bodies like the Committee of Directors of Polytechnics who have actively promoted the higher education reforms. Now whether they actually know what they are letting themselves in for is quite another matter, but I believe that there is a pretty clear warning for local authorities in handling their future relationships with their FE colleges. This administration has shown a consistent preference for believing what principals and academic managers tell it, about how their best efforts are being frustrated, not by the LEA officers for whom they profess a deep respect, but by the dogma-blinded elected members.

Now many of those LEA officers here will have their own opinions about the ability of certain principals and vice-principals who manage large institutions and no doubt college-based managers have equal doubts about those of their LEA colleagues, but there is no question that for good or ill the constitutional position of local elected members is under attack. This has been interesting, when we have been talking to the civil servants about some of the proposals in the FE Consultative Paper about staffing and about the role the local authority can play in making senior staff appointments (and an awful lot of the working out of that is not going to be in primary legislation). They appeared content to write into model instruments and articles of government or model rules of procedure that LEA officers have a very considerable role in appointing staff down almost as far as senior lecturers (certainly at principal and head of department level) but they would not entertain the possibility of LEA elected members being put in at anything other than most senior posts. They think that the influence of local elected members is destructive.

The main thrust of the Education Bill in FE, HE and in schools, is to reduce the influence of what are increasingly regarded as blind guides . In higher education LEAs will have at most one or two representatives on institutional governing bodies, and probably no representation directly on PCFC though it is likely that there will be a sort of a joint consultative body set up between PCFC and the local authority Associations to manage the relationship between PCFC and the mixed economy colleges. In further education, the Consultative Paper similarly devolves power to the institutions with a reduced LEA representation on governing bodies. If the proposals pass into law as drafted, LEA representatives won't even be able to hold chairmanships of governing bodies, though I would put money on that restriction being lifted when the Bill is published, because it has caused too much offence in areas which are normally friendly to the present administration.

Accountability is thus seen as being more left entirely to the customer or as a matter between contractors; rather as in the schools sector where institutions are seen as being increasingly free standing bodies, in a somewhat tenuous relationship to planning structures. In higher education there is going to be no over-arching body to co-ordinate the efforts of the universities and the polytechnics and colleges. NAB's planning work and more particularly the philosophy that has underlined it, may very well not be taken up in such detail by the PCFC. The emphasis on concentration of higher educational opportunities and rationalisaion in the White Paper is I think unhealthy; it also puts into reverse a lot of NAB's principles and although the local authority rightly retains strategic responsibility for the provision of non-advanced further education in their areas, the ability to ensure institutional adherence to those plans is very heavily qualified and the power to integrate AFE and NAFE provision is very greatly weakened. One thing that has actually passed somewhat unnoticed about all these proposed reforms is that the role of the Regional Advisory Councils is going to be significantly altered: in some cases will be altered almost to extinction. You might have your own views whether that is a good or bad thing, but if you think about the way the proposals are framed, there will actually be very little for the Regional Advisory Councils to do, and they may need to find themselves a new role, or give way gracefully!

As far as the next few months are concerned, of course, management of and in the higher education institutions which will transfer is going to be difficult. It isn't really going to be possible, to anticipate the legislation until the Lords stages are complete. It will be very hard for institutions and maintaining LEAs to make reasonable plans for vesting day.

Its likely that the PCFC and probably the assets board will have an embryo existence after the Commons second reading so that they they can begin preparatory work and really swing into action immediately after Royal Assent. I rather looks as though the Department is going to try and have shadow boards of governors in existence for the transferring institutions on something like the same timescale. We gather that approaches are likely to be made almost on the basis of inviting people to join the lodge, approaches are going to be made to existing chairmen and leading members of governing bodies to discuss interim governing arrangements for their institutions: so if your chairman gets a tap on the shoulder in the bus queue one Friday night you will know that it is a DES emissary trying to interest him in being a Shadow Chairman instead or as well.

It should be possible to press on with the business of identifying what assets are to be transferred on vesting day. The areas of likely difficulty are fairly obvious:- the joint use of provision, the sites that are zoned for polytechnic purposes but which have not actually been handed over, and so on. Civil Servants have spoken publicly of institutions 'looking to the Assets Board for support' in cases of dispute, so let that be a warning to local authorities. Although institutions have been in a varying state of dependence on LEAs now, it is clearly going to be necessary for them to staff up in order to take over the broad range

of personnel, finance, estates and legal functions now operated for them by local authorities. It would be sensible for most to have taken steps to strengthen their management capacity before vesting day. However, the AFE pool quantum recently announced includes no extra resources for institutions which would enable them to prepare for their new responsibilities. The extra money that was granted is tied to particular programmes of academic development. If institutions want to divert money to other purposes they will have to further reduce the unit of resource in their institutions. After vesting day what is now charged to institutions in the form of central establishment charges will of course be available to them to use as they wish. It's very likely that local education authority departments will have to act as agents for institutions under contract for some long time to come after April 1989. So institutions looking forward to liberation are going to be surprised.

I think we all know that some rules and restrictions are tedious and probably unnecessary and we all know how frustrating local education authority elected members can be in defence of their particular world view. The actual amount of freedom under instruments and articles of government transferring institutions will have enjoyed has actually been quite considerable. They already have significant powers over their academic programmes and the amount of candid but friendly support they will have had from both LEA officers individually and from the LEA corporately can too often be underestimated. There is topping up finance, for example, which will cease after 1989. Will NAFE survive long in the transferred institutions? LEAs can if they wish withdraw both funding and staff and place the work elsewhere. How often have institutions been able to call on local political support for building programmes, or the maintenance and development of particular courses against the depredations of NAB, or the RAC or Regional Staff Inspector. How many of the 28 other LEA institutions listed in the White Paper would have survived and flourished had it not been for local education authority efforts? North Riding College, West Midlands College of Higher Education, Charlotte Mason; all offer a national and local service, they were all recently under threat, and were all vigorously defended by their maintaining authorities. It was the local authorities who helped the Royal Northern College of Music in Manchester to achieve its present eminence, local authorities built up Bolton Institute of Higher Education, Dorset IHE, Nene College, Humberside CHE. The list is actually quite a long one and it was all done out of a sense of civic pride, I suppose, and a sense of what the local areas needed. Now I dwell on this at some length because I think that it is good for a mixed audience like this to be reminded of the beneficial effects as well as the frustrations of local political and management support. And because I think that some institutions need to be reminded of what is the nature of the independence they have so eagerly been seeking. The PCFC, it has been specifically stated, will want to judge and compare institutions. Contracts will lay down clear specification of provision. Institutions will become clearly accountable for a course programme and subject to performance measures. I don't know what those performance measures will be, but there might be some clues to be found in the GMP report, because although its broad constitutional provisions have been ignored by government, they do seem to be taking some of its other internal management suggestions quite seriously.

Institutions will still be at the mercy of public expenditure controls, and the disparity of resources between polytechnics and colleges and the universities will continue to exist, and might even widen. But although in the short term PCFC will not want to dismember institutions' work profiles, the logic of policy leads to rationalisation and I am afraid in some cases to closure. Possibly the first rationalisation will be seen in the 20% or so AFE work remaining with local authorities, but in spite of the fact that there will be a 5% increase in student numbers, the whole thrust of the White Paper is that the smaller institutions will close. It's perhaps no consolation therefore for polytechnics and colleges to be urged to develop entrepreneurial skills to raise extra cash to help secure their viability, not in that context. Though I have to say that I do see one significant gain for all institutions amid the encircling gloom. Modern thinking is clearly designed to encourage colleges to benefit much more directly from their efforts to provide consultancies, short courses, full cost provision, and as far as FE is concerned, if local authorities are wise, they will allow their FE colleges to keep a much larger proportion of their income from those sources than they already do, so as to invest the fruits of enterprise in equipment, learning resources, building works, and so on. Reliance on the simple tired old-fashioned formula of "all-expenditure from the authority, all income to the authority", is not just going to work any more.

The HE White Paper, and the FE Consultative Paper do, I think, share the failure seriously to analyse the performance of the sectors with which they deal. As for Higher Education, what is undoubtedly a success story stems from an organisational structure which has encouraged, in spite of all the frustrations, innovation and growth. The growth in HE access has all been in the public sector. The implications of the changes brought about by the Education Bill are likely to be very serious for some aspects of provision. For example, in teacher education, colleges of higher education with substantial initial teacher training work ought to be in a closer relationship than ever with local authorities in order to meet the Government's own introduction of stringent requirements for links with schools. Successful planning of the new arrangements for in-service training requires strong local authority links and of course they are going to be divorced. The performance of the public sector in providing access for students, meeting the needs of local commerce, has been enhanced by the ability to look at FE as a whole whether on the basis of a single LEA or more questionably, regionally. The present system allows not only distribution of individual courses which best meet local needs but the possibility of cooperative activity such as the delivery of polytechnic courses at local colleges which are more accessible to students, whether independent or sponsored by employers. And although concentration in the largest institutions has already to some extent limited opportunities, the present system still offers significant opportunities for part-time HE in dispersed, convenient locations for students and employers. Part-time students can progress from non-advanced to advanced levels of study. There is advantage both in terms of quality and opportunity in a coherent set of courses either in one institution or linked institutions. And the apparent down grading of the treatment of part-time sub-degree courses which is without the remit of the PCFC is a bit worrying, because courses in seemingly different disciplines, as we know, are often interdependent, eg catering and business studies courses can develop related entrepreneurial skills. Distinctions between advanced and non-advanced work are often unreal and artificial.

This is all basic stuff. It's fundamental to the delivery of a flexible and responsive system and the structure set up by the Bill ought to be able to demonstrate that it can match the advantages of what exists now.

Now, I ought to say something about Further Education and if the implication is that this is something of an afterthought, then I'm sorry, but in fact a lot of the general principles that I have already talked about are just as applicable to FE as they are to HE. And if I need a further excuse it's that the Bill itself is not likely to affect FE as dramatically and there is one thing that will actually be directly beneficial. At last the local authority provision of FE will explicitly be intra vires and won't have to depend on outdated schemes of further education under the 1944 Act and tortuous interpretations of the Employment and Training Act 1973. That is good, (it's overdue), but although the proposals set out in the consultative paper are not likely to be in principle as destructive as the HE proposals, and actually build on a lot of what's going on already, they do nevertheless present their own problems. You have obviously already read the consultative paper and your first reaction might very well be "Well, it could be worse", but the bland civil service prose only partially conceals the sort of things that are common to the rest of the likely content of the Education Bill. There is the same progressive weakening of local education authority influence on governing bodies and in the general conduct of the college. There is a divorce of power and responsibility. Overall responsibility really can't be exercised effectively if the power to intervene other than at budget making time is taken away or if influence over senior appointments is reduced to the extent suggested. The proposals on staffing which follow very closely those in the consultative paper on financial delegation to schools are apparently almost wilfully designed to be unworkable. You might want to comment on your own situation although that's the way it looks to us.

What we don't know yet is whether the Bill will lay down what is to be in the schemes of delegation, or whether it will content itself with simply requiring that a scheme be drawn up. We hope the latter and as that will give authorities and colleges some time to decide what is most appropriate and we can do some damage limitation work with the FHE branch at the DES.

The main difficulty with the FE consultative paper is that it does take little or no account of the management tasks that LEAs and colleges are faced with in the light of, for example, the Joint Efficiency Study; accelerating demographic decline in the post baby boom era; the difficult industrial relations climate and the introduction of deliberate unpredictabilities in the adult training market. Those of you who have had to deal with MSC over new JTS will know exactly what I mean about that. The assumption is clearly that colleges have already got the institutional maturity and the management resources to face up to the problems of the next few years, with the LEA needing only to place a gentle hand on the tiller; they will also gain inestimable benefits from the large numbers of keen and dedicated employers who are going to be imported onto the governing bodies and make them so much more responsive to the needs of the local business community.

Well, it may be that some colleges have got that maturity and if they can gain that maturity the vision glorious of corporate status is held out as a distant target for them in the consultative paper. Once they have proved that they have the ability to run their affairs without falling into bankruptcy I would have thought perhaps that in about 1995 the first corporate FE colleges will begin to come on the scene. But it really isn't possible to assume, as the government sometime seems to do, that one model is going to be broadly appropriate for all institutions. Even after the transfers out of the LEA sector of the colleges affected by HE plans, the institutions left with local authorities will still be remarkably diverse. Local financial management will be coming into secondary schools as they start to expand again. That certainly makes management easier after the institutional level. It comes to further education in its pure form as outlined in the consultative paper, at a time if not of contraction then at least of the need for a change of direction which is going to make management very difficult, unless LEAs and colleges can work out a new partnership. I foresee a build-up of intense pressures on college management and if Coombe Lodge wants a research project, I suggest that it monitors the preparation of, and implementation of, delegated schemes of management in a number of institutions over the next few years.

Now, I think I've said quite enough and as usual with all these talks, I am well aware that an awful lot has had to be left out. I hope I've not exhausted your capacity for discussion.